

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO.308 OF 2007

Commissioner of Income Tax, Aurangabad ..Appellant.

V/s.

Vinayak Sahakari Sakhar Karkhhana Ltd. ..Respondent.

Mr.B.M.Chatterjee with Ms.Poonam Bhosale for appellant.

Mr.S.N.Inamdar with A.K.Jasani for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 25TH JULY, 2007.

P.C. :-

1. The Commissioner of Income Tax, Aurangabad has filed this appeal under 260A of the Income Tax Act, 1961 stating that the following question of law arise out of the order dated 27/5/2003 of the Tribunal.

" Whether on the facts and in the circumstances of the case, the Tribunal relying upon the Bombay High Court's decision in the case of CIT V/s. Chatrapati SSK Ltd. (2000) (245 ITR 498) was right in law in deleting the following additions by holding that various funds / deposits collected by the assessee society out of sugarcane purchase price payable to the cane growers are not the trading receipts as held by the Supreme Court in the case of Bazpur Co-operative Sugar Factory Ltd. (172 ITR 321) ?

2. Counsel on both sides agree that the

question raised by the revenue is answered by the Apex Court in the case of **Sidheshwar Sahakari Sakhar Karkhana Ltd. V/s. C.I.T.** reported in **270 I.T.R. 1** which is partly in favour of the assessee and partly against the revenue and the issue relating to the cane development fund has been remanded back to the I.T.A.T. for fresh consideration. In this view of the matter, the impugned order of the Tribunal is set aside and the matter is remanded back to the Tribunal to decide the issue afresh in the light of the decision of the Apex Court in the case of **Siddeshwar Sahakari Sakhar Karkhana Ltd.** (supra).

3. Appeal is disposed of accordingly with no order as to costs.

(F.I.REBELL0, J.)

(J.P.DEVADHAR, J.)